

HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

GERALD ALAN SHERMAN,

Defendant.

NO. CR05-181JCC

ORDER CONTINUING
TRIAL DATE AND
FINDING EXCLUDABLE
TIME

Based on representations made by the parties on the record and in a filed stipulation, and on the record in this case, the Court hereby makes the following findings and enters the following order:

1. Defendant Gerald Alan Sherman was arrested and arraigned on May 5, 2005. Trial was originally scheduled to commence on June 27, 2005, but previously was continued twice at the defendant's request. Trial most recently was scheduled to begin on June 26, 2006.

2. Time has been excluded from the requirements of the Speedy Trial Act since June 2, 2005 based on the pendency of motions filed by the defendant as well as on findings of excludable time made by this Court.

3. Without a further exclusion of time, trial must begin in this case on or before August 7, 2006.

ORDER
RE EXCLUDABLE TIME
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1 4. Because this trial may take longer than originally anticipated and because of
2 conflicts in the Court's calendar, on June 14, 2006, the Court suggested to the parties that
3 the trial be continued until July 24, 2006, or, in the alternative, assigned to a different
4 judge.

5 5. The parties did not desire that the case be assigned to a different judge.

6 6. One of the lawyers representing the government informed the Court that the
7 proposed July 24, 2006 trial date would be problematic because he and his family have a
8 prepaid vacation to Hawaii that is scheduled to begin on August 3, 2006 with counsel
9 returning to the office on August 21, 2006. This absence clearly would overlap with any
10 trial of this case beginning on July 24, 2006.

11 7. Counsel for the government who has the conflict has been assigned to this
12 complex case since its inception. The parties agree and the Court finds that it is in the
13 public's interest to take advantage of the efficiency of maintaining the assignment of an
14 attorney who has been involved with the case for such a length of time and that a failure to
15 grant this continuance would unreasonably deny the government continuity of counsel. 18
16 U.S.C. § 3161(h)(8)(B)(iv). The defense does not object to the continuance for this
17 reason.

18 8. Defense counsel is representing the defendant in *State v. Anthony-Jones* in
19 King County Superior Court. That case involves an allegation of second-degree murder.
20 Trial is scheduled to begin on August 21, 2006 and is expected to last approximately four
21 weeks. Defense counsel also has a trial scheduled in *United States v. Cameron* for
22 September 18, 2006 in U.S. District Court. That trial is expected to last approximately
23 one and one-half weeks, although the trial date may be moved. Because of these trials,
24 defense counsel would be unable to commit to a trial date in this case before the scheduled
25 October 2, 2006 date. The parties agree and the Court finds that it is in the public's
26 interest as well as the defendant's interest to maintain continuity of defense counsel and
27 that a trial in August or September, 2006 would not permit that continuity.
28

1 9. Accordingly, the parties agree that it is appropriate that the Court make a
2 finding of excludable time pursuant to 18 U.S.C. § 3161(h) for the period of time from
3 June 26, 2006, to October 2, 2006.

4 10. Accordingly, the Court finds that the ends of justice outweigh the best
5 interest of the public and the defendant in a speedy trial, and that a failure to grant a
6 continuance under these circumstances would result in a miscarriage of justice.

7 Based on these findings,

8 IT IS HEREBY ORDERED that the trial date is continued from June 26, 2006 to
9 October 2, 2006.

10 IT IS FURTHER ORDERED that pursuant to 18 U.S.C. § 3161(h), the period of time
11 from June 26, 2006 to October 2, 2006 is excluded in the computation of time under the
12 Speedy Trial Act.

13 DATED this 21st day of June 2006.

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A handwritten signature in black ink, appearing to read "John C. Coyle", is written over a horizontal line.

UNITED STATES DISTRICT JUDGE

Presented by:

/s/ J. Tate London

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11 Copy Received; Notice of Presentation Waived

12 /s/ Stephan R. Illa *

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21 * Signed per telephonic authorization

22 ORDER

23 RE EXCLUDABLE TIME

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